



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

January 21, 1994

Honorable Roy W. Wiesner
Waller County Auditor
836 Austin Street, Suite 221
Hempstead, Texas 77445

Letter Opinion No. 94-004

Re: Procedure for setting annual salaries of
elected county officials (ID# 23532)

Dear Mr. Wiesner:

You ask whether the elected county officials of Waller County are entitled to a three percent across-the-board salary increase adopted under the following circumstances:

On September 22, 1993, when the Waller County Commissioners Court approved the 1994 budget, a motion was made and adopted, to give "a 3% raise across the board for all County Employees." . . .

The proposed budget available for review by the public did not contain a proposed pay increase for the elected officials.

Section 152.013 of the Local Government Code establishes procedures for setting the salary, expenses, and other allowances of elected county and precinct officers. The commissioners court is to set officers' salaries at a regular meeting of the court during the regular annual budget hearing and adoption proceedings, after giving notice as required by 152.013(b) of the Local Government Code:

(b) Before the 10th day before the date of the meeting, the commissioners court must publish in a newspaper of general circulation in the county a notice of:

- (1) any salaries, expenses, or allowances that are proposed to be increased; and
- (2) the amount of the proposed increases.

We assume that the commissioners court intended the "3% raise across the board for all County Employees" to apply to elected county and precinct officers.

In Attorney General Opinion MW-516 this office addressed a similar situation arising under section 2(a) of former article 3912k, V.T.C.S., the predecessor of Local Government Code section 152.013. The Fort Bend County Commissioners Court had approved a budget providing salary increases for county officers, even though the notice

required by former article 3912k, V.T.C.S., was not published until after the budget was approved. This office concluded:

In our opinion, the adoption of the budget by the commissioners court on January 5, 1981, was ineffective to increase the salaries of county officials above the salaries set for them in 1980. A special notice is required by article 3912k if salaries are to be raised.

Attorney General Opinion MW-516 (1982) at 2; *see also* Attorney General Opinion JM-27 (1983) (in the absence of proper notice of salary increases for county officers, salary increase was invalid). *But cf. Neptune v. Renfro*, 586 S.W.2d 596 (Tex. Civ. App.—Austin 1979, no writ) (taxpayer suit addressing, among other subjects, requirement of notice when commissioners court approved salary grievance committee's recommendations for increasing county officer's salaries).

Attorney General Opinion MW-516 provides the answer to your question. County and precinct officers of Waller County are not entitled to the three percent across-the-board salary increase adopted by the Waller County Commissioners Court, because the special notice required by section 152.013 of the Local Government Code was not published.

S U M M A R Y

County and precinct officers of Waller County are not entitled to the three percent across-the-board salary increase adopted by the Waller County Commissioners Court, because the special notice required by section 152.013 of the Local Government Code was not published.

Yours very truly,



Susan L. Garrison
Assistant Attorney General
Opinion Committee